APPENDIX.

Statute and Regulations Involved.

Revenue Act of 1936, c. 690, 49 Stat. 1648:

SEC. 22. GROSS INCOME

(a) *General Definitions.*—"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid. * * *

(b) *Exclusions from Gross Income.*—The following items shall not be included in gross income and shall be exempt from taxation under this title:

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(3) *Gifts, bequests, and devises.*—The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

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Treasury Regulations 94, promulgated under the Revenue Act of 1936:

ART. 22 (a)-2. *Compensation for personal services.*—Commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, pay of persons in the military or naval forces of the United States, retired pay of Federal and other officers, and pensions or retiring allowances paid by private persons or by the United States are income to the recipients; as are also marriage fees, baptismal offerings, sums paid for saying masses for the dead, and other contributions received by a clergyman, evangelist, or religious worker for services rendered. However, so-called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and are not taxable. * * *

COMPARATIVE STATEMENT OF FACTS

Case	Moral or legal obligation to make payment	Expectation of future benefit to payor	Language of payor on making payment		Deduction taken by payor in its income tax return	Holding: Compensation or gift
			Indicating gift	Indicating compensation		
Botchford v. *Com'r.* 81 F(2d) 914 (C.C.A. 9, 1936)	None	None	"Whereas D. H. Botchford resigned . . . after having been in the service of this Corporation and its predecessor for many years; and Whereas the condition of the health of D. H. Botchford might make it difficult for him to procure immediate remunerative employment."	"D. H. Botchford, Remuneration: . . . "An additional year's salary be credited to Mr. Botchford . . . to be paid in . . . monthly instalments"	Yes	Compensation
Willkie v. *Com'r.* (C.C.A. 6, May 12, 1942)	None	None	"that Mr. Willkie be given a cheque . . . in appreciation . . ." "Mr. Hatch stated (the Board of Directors) had voted to give petitioner a present."	". . . equal to six months' salary in appreciation of services rendered."	Yes	Compensation
Fisher v. *Com'r.* 59 F(2d) 192 (C.C.A. 2, 1932)	None	None	Recipient was told the Company "would do something for him" on his termination of employment.		Yes	Compensation
Walker v. *Com'r.* 88 F(2) 61 (C.C.A. 1936)	None	None	"a bonus . . . in recognition of valuable and loyal services . . ." "a nice and generous thing to show their appreciation by remembering them (employees) in the form of a 'gift or honorarium' 'presents or gifts'"	"be appropriated, paid and distributed . . . to . . . former and present employees in recognition of the valuable and loyal services of said employees . . ."	No	Compensation
Bogardus v. *Com'r.* 302 U.S. 34 (1937)	None	None	"a bonus . . . in recognition of valuable and loyal services . . ." "a nice and generous thing to show their appreciation by remembering them (employees) in the form of a 'gift or honorarium' 'presents or gifts'"	"be appropriated, paid and distributed . . . to . . . former and present employees in recognition of the valuable and loyal services of said employees . . ."	No	Gift
Hall v. *Com'r.* 93 F(2d) 1005 (C.C.A. 4, 1938)	None	None	"a bonus . . . in recognition of valuable and loyal services . . ." "a nice and generous thing to show their appreciation by remembering them (employees) in the form of a 'gift or honorarium' 'presents or gifts'"	"be appropriated, paid and distributed . . . to . . . former and present employees in recognition of the valuable and loyal services of said employees . . ."	No	Gift
Simpkinson v. *Com'r.* 93 F(2d) 1015 (C.C.A. 5, 1937)	None	None	"a bonus . . . in recognition of valuable and loyal services . . ." "a nice and generous thing to show their appreciation by remembering them (employees) in the form of a 'gift or honorarium' 'presents or gifts'"	"be appropriated, paid and distributed . . . to . . . former and present employees in recognition of the valuable and loyal services of said employees . . ."	No	Gift
Jones v. *Com'r.* 31 F(2d) 755 (C.C.A. 3, 1929)	None	None	. . . "in consideration of such a sudden termination of the business association and in recognition of the efforts and devotion of the officers and certain old employees . . ."	"and to pay from the proceeds of such sale in excess of $55 per share . . . (proportionate shares) of the $150,000 as voted by the present Board of Directors for distribution among the present officers of the company"	No	Gift
Cunningham v. *Com'r.* 67 F(2d) 205 (C.C.A. 3, 1933)	None	None	"Resolved, that in appreciation of Mr. Cunningham's excellent guidance of the Corporation through times of difficulty and depression a sum of $15,000 be . . . awarded to Mr. Cunningham as an 'honorarium . . .'"	"a sum of $15,000 be awarded to Mr. Cunningham . . . said sum to be payable forthwith."	Did not appear	Gift